

EXHIBIT "A"

STATE OF MONTANA
BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

IN THE MATTER OF APPLICATION FOR
BENEFICIAL WATER USE PERMIT
FILED BY MICHAEL H. CZERWINSKI
APPLICATION NO. 425-s76N

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

The Proposed Findings of Fact and Conclusions of Law in this matter entered on July 24, 1974, are hereby adopted as the Final Findings of Fact, Conclusions of Law, and the Final Order is hereby ordered.

ORDER

1. The applicant is granted a permit allowing for the appropriation of two (2.0) cubic feet per second of water and not to exceed one-hundred forty (140) acre-feet per annum to be diverted at a point in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 20 with a 3-acre-foot impoundment at a point in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 31, all in Township 25 North, Range 31 West, of Sanders County, Montana by means of the existing Green Mountain Canal.
2. The permit is granted subject to the completion within two (2) years of improvements upon the Green Mountain Canal to increase the canal by the requested capacity.
3. This permit is granted subject to the acquisition of an easement in the Green Mountain Canal for the requested quantity of water.
4. The permit is granted subject to existing rights.

Done this 8th day of January, 1975.

Orin Ferris
Administrator, Water Resources Division
DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

CASE # 425

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FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

ORDER

2. The permit is granted subject to the completion within two (2) years of improvements upon the Green Mountain Canal to increase the canal by the requested capacity.

3. This permit is granted subject to the acquisition of an easement in the Green Mountain Canal for the requested quantity of water.

4. The permit is granted subject to existing rights.

Done this 18th day of December, 1974.

day of December, 1911
 Orrin Ferris

CASE # 425

BEFORE THE MONTANA DEPARTMENT
OF
NATURAL RESOURCES AND CONSERVATION

FILED
APR 1974

IN THE MATTER OF THE
APPLICATION FOR BENEFICIAL
WATER USE PERMIT OF MICHAEL
CZERWINSKI 425-s76N

PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

Pursuant to the provisions of the Montana Water Use Act, Section 89-865 et seq., R.C.M. 1947, after due notice, a public hearing was held July 15, 1974, at the Trout Creek Grade School, Trout Creek, Montana. The objectors, Frank Tinker, James E. Seratt, Robert D. Miller, Clarence and Mrs. Keirn, Ed Ewen, Jim McLindon appeared and gave testimony. Applicant and his wife, Michael and Betty Czerwinski presented testimony.

PROPOSED FINDINGS OF FACT

1. On September 14, 1973, Michael H. Czerwinski filed with the Department of Natural Resources and Conservation, Water Resources Division, an application for beneficial water use permit to appropriate water from Swamp Creek, a tributary of the Clark Fork River.
2. The total quantity of water applied for was 375 acre feet per annum to be diverted from Swamp Creek in the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 31, Township 25N, Range 31W, of Sanders County by way of the Green Mountain Main Canal and through lateral three off the main ditch. That the quantity needed is two (2.0) cubic feet per second not to exceed one hundred forty (140) acre feet per annum.
3. Objections to the application were filed by Sloan Hightower, James E. Seratt, Robert D. Miller, Clarence H. Keirn, and Frank Tinker all of Trout Creek. Sloan Hightower did not make an appearance but Jim McLindon and Ed Ewen of Trout Creek appeared as objectors and gave testimony.
4. The water is to be used for irrigation, stock water and a fish pond on seventy one (71) acres owned by the applicant.
5. The diversion facilities are not adequate at this time. The main canal has silted in, there are flumes of limited capacity, and there is excessive loss due to seepage.
6. It appears that there are waters available in the source of supply; that the rights of prior appropriators will not be adversely affected; that the proposed use of water is a beneficial use; and, that the proposed use will not interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved.

CASE # 425

PROPOSED CONCLUSIONS OF LAW

1. Under the provisions of Section 89-880, R.C.M. 1947, a permit to appropriate water from Swamp Creek for a beneficial use is required.
2. The applicants' intended use as described in the application is a beneficial use for which water may be appropriated.
3. The applicants' diversion facilities are not adequate.
4. The application for beneficial water use permit may be granted in accordance with the provisions of Chapter 8 of Title 89 of the Laws of the State of Montana.

Based on the above proposed findings of fact and conclusions of law, the following order is proposed:

PROPOSED ORDER

1. The applicant is granted a permit allowing for the appropriation of two (2.0) cubic feet per second not to exceed one hundred forty (140) acre feet per annum to be diverted at a point in the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 31, Township 25N, Range 31W, of Sanders County, Montana by means of the existing Green Mountain Canal.
2. The permit is granted subject to the completion within two (2) years of improvements upon the Green Mountain Canal to increase the Canal by the requested capacity.
3. The permit is granted subject to existing rights.

NOTICE: This is a proposed order and will become final when accepted by the Administrator of the Water Resources Division of the Department of Natural Resources and Conservation. Written exceptions to the proposed order shall be filed with the Department within ten (10) days of service upon the parties herein. Upon receipt of any written exceptions, opportunity will be provided to file briefs and to make oral arguments before the Administrator of the Water Resources Division.

24 July 74
Date

Gary L. Spack
Hearings Officer